

April 10, 2017

City of Chula Vista  
Chula Vista Police Department  
Detective Jesse Vicente  
Special Investigations Unit/SWAT  
315 Fourth Ave  
Chula Vista, CA 91910

**RE: 7 Eleven Inc.  
4232 & 4230 A & B Bonita Road,  
Chula Vista, CA**

**Check \$1,500 and ABC 245 enclosed**

**Determination of Public Convenience or Necessity – Request to be placed on  
Agenda to gain support for our beer and wine request. “PCN”**

According to the statistics provided by the Department of Alcoholic Beverage Control, the above referenced premises is located in a census tract in which an undue concentration of licenses exists pursuant to §0427.31 of the Business and Professions Code. It is my understanding that the City of Chula Vista Police Department will make this determination of Public Convenience or Necessity as required by §23958.4 Business and Profession Code. Therefore, on behalf of 7-Eleven, Inc., I respectfully request that the City of Chula Vista find that Public Convenience will be served by issuance of an off sale ABC Type 20 beer and wine license at the above referenced location.

#### **BACKGROUND**

7 - Eleven, Inc. has applied for an original off-sale beer and wine license (type 20) with the Department of Alcoholic Beverage Control at the above referenced location. The Department of Alcoholic Beverage Control has determined that the proposed 7- Eleven is located within Census Tract 134.12 Pursuant to §23958.4 of the California Business and Professions Code, the Department determined that Census Tract 134.12 is over concentrated with 3 Allowed and 6 exist. However, in order for the proposed 7 - Eleven to obtain an off sale ABC Type 20 beer and wine license, the City of Chula Vista police Department must make a finding that the proposed use would be a public convenience or necessity.

#### **OVERVIEW AND PROJECT DESCRIPTION**

7 Eleven, Inc. proposes an upgraded upscale site with upscale interior finishing that is well-lit inside and outside.

**CLARIFICATION OF THE LEGAL STANDARD:**  
**“PUBLIC CONVENIENCE OR NECESSITY”**

First, it is important to emphasize that Business & Professions Code § 23958.4 requires a positive finding of public convenience “*or*” necessity in order for an off-site ABC application to be approved. Thus, it is legally sufficient if 7 Eleven shows *either* public convenience *or* public necessity. It is *not* legally necessary to show both.

Second, it is only necessary to show public convenience or necessity where, as here, there is an “undue concentration” of licensees in the census tract. The term “undue concentration” (also referred to as “over concentration”) is specifically defined in Business & Professions Code § 23958.4 as simply a ratio of *the number of licenses in a census tract* compared to *the average number of licenses in a County*, as a whole. It does *not* mean that a particular census tract necessarily has too many licenses for the needs or convenience of residents in that tract.

“Over concentration” also does not mean that the State, or anyone else, has previously looked at this census tract and determined that it has suffered any deleterious effects from the actual number of licenses existing; or that it will suffer if a new license is issued. It merely provides a guideline for making such a determination, in the form of determining whether, in a particular situation, the ABC license would serve the “public convenience or necessity.”

Thus, in this case, the fact that the census tract in which 7 - Eleven’s site is located is statutorily “over concentrated” does not mean that selling a small amount of beer and wine in a newly market will have adverse impacts. Rather, it simply means that the City of Chula Vista to must find that either public convenience or public necessity will be served by the sale of beer and wine at the site. As demonstrated below, permitting the sale of beer, and wine at this site will clearly satisfy this standard, and the City of Chula Vista should grant 7 - Eleven’s application.

Selling beer and wine at this location will benefit the community surrounding the site by providing a close, convenient, and safe place to make purchases. Concentration issues are a relatively minor factor that does not justify a negative finding of PC or N for this site. Moreover none of the surrounding area will be adversely affected. This census track

is very large and low-med residential properties are to the North of the Site. This proposed site is surrounded by developed commercial uses and major streets that separate uses.

### **The convenience of 7- Eleven's Concept**

7 - Eleven proposes to operate the site as a modern convenience store. The convenience store provides a large diversity of food and sundry items. In fact, 7- Eleven carries over 2,500 different items. 7- Eleven's standard products includes hundreds of items from milk to household items, and cheeses to chips, prepared foods, fresh food, meats, and baked goods, along with soft drinks and other non-alcoholic beverages. Although 7- eleven sells more than 1 million cups of fresh brewed coffee and more than 2 million immediately consumable food items a day, 7- Eleven is much more than a food store. 7 - Eleven is the nation's leading retailer of USA Today, Sports Illustrated and money orders. The 7-Eleven concept is intended to provide a broad array of products for the consumer's convenience.

The sale of beer and wine will be one important part of this 7 -Eleven concept. Indeed, although beer and wine are expected to comprise a very small percent of the site's shelf-space, only a small portion of 7 -Eleven's sales ( average between 10% and 15% depending on location and competitors in the area), it is nevertheless necessary in order to provide the public a complete range of products.

Furthermore, 7- Eleven wants to maximize the availability of a large diversity of food and sundry items at the site pursuant to its 7 -Eleven concept, previously described. Permitting the sale of beer and wine at the site will complete 7 -Eleven's concept, enabling customers to purchase a variety of products at one convenient stop. Providing customers all of this at one location is what "public convenience or necessity" is really all about.

The proposed 7 -Eleven store will be located at the South East intersection of Bonita Road and Allen Road. Given that corner is in a commercial zone and allowed use by the city. This location is used as a main Arterial Street within the City. 7- Eleven will serve the employees of the Chula Vista and businesses, not only will the 7- Eleven be a convenient place for employees to shop on their way to and from work, it will also serve visitors on their way to or from nearby communities.

**7 -Eleven is a responsible retailer and the site will not result in an adverse impact on public health, safety, or welfare**

It should be noted that 7- Eleven has a very extensive training program for its employees to help ensure that it is a responsible retailer of alcoholic beverages. 7- Eleven's "Come of Age" program is a multi media, computer based training program to ensure that employees understand and implement the procedures imposed by 7 -Eleven to comply with ABC laws and regulations. Moreover, the "Come of Age" program incorporates training on all age-restricted products, including tobacco, lottery, inhalants and alcohol. Indeed, 7 -Eleven will likely be a more responsible retailer of beer and wine than any other retailer in the area.

7 -Eleven realizes that a healthy community translates to healthy business, and is willing to accept the ABC's imposition of these conditions when a license is issued in order to ensure that the public health, safety, and welfare are protected. In short, 7 -Eleven is committed to protecting the public health, safety, and welfare of the community, and will take appropriate steps to do so. The sale of beer and wine on the site will *not* threaten these important concerns.

**CONCLUSION**

As indicated above, this site will clearly serve the public convenience of residents, visitors, shoppers, and workers of Chula Vista. The development of the property as a New 7 -Eleven will not adversely affect any portion of the surrounding area. 7 -Eleven has been a responsible retailer of alcoholic beverages nationwide. Permitting the sale of beer and wine at the site will not change this, but will 'round-out' 7 -Eleven's concept at this site, providing customers the added convenience to make quick, efficient, and safe purchases of beer and wine. A positive finding of PC or N is certainly appropriate.

We would like to be placed on your agenda for these findings to be made at your local required meeting.. Thank you for your consideration in this matter.

Sincerely,

7-Eleven, Inc.  
Sherrie Olson